

## EXHIBIT 2

**FILED**  
NORTH COUNTY DIVISION  
2013 NOV 25 PM 3:27  
(31)  
CLERK-SUPERIOR COURT  
SAN DIEGO COUNTY, CA

1 CALL & JENSEN  
A Professional Corporation  
2 Matthew R. Orr, Bar No. 211097  
Michael S. Orr, Bar No. 196844  
3 610 Newport Center Drive, Suite 700  
Newport Beach, CA 92660  
4 Tel: (949) 717-3000  
Fax: (949) 717-3100  
5 morr@calljensen.com  
msorr@calljensen.com

6 Attorneys for Defendant Monterey Financial Services, Inc.

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF SAN DIEGO - NORTH COUNTY**

**VIA FAX**

10  
11 TIFFANY BRINKLEY, on behalf of herself and  
others similarly situated,

12 Plaintiff,

13 vs.

14 MONTEREY FINANCIAL SERVICES, INC.;  
15 DOES 1 through 100, inclusive,

16 Defendants.

Case No. 37-2013-00071119-CU-MC-NC

Assigned for All Purposes to:  
Hon. Timothy M. Casserly, Dept. N-31

**DEFENDANT MONTEREY FINANCIAL  
SERVICES, INC.'S ANSWER TO  
PLAINTIFF'S COMPLAINT**

**DEMAND FOR JURY TRIAL**

**IMAGED FILED**

17  
18  
19 Complaint Filed: October 15, 2013  
20 Trial Date: None Set

21 Defendant Monterey Financial Services, Inc. ("Defendant") in response to Plaintiff's  
22 unverified Complaint for Damages and Injunctive Relief for Unlawful Recording or Monitoring of  
23 Telephone Calls ("Complaint") hereby answers the allegations of the Complaint as follows:

24  
25 **PLAINTIFF'S CLAIMS ARE SUBJECT TO BINDING ARBITRATION**

26 1. Defendant denies that jurisdiction is proper in this forum because Plaintiff's claims are  
27 subject to a binding arbitration agreement. As a result, Defendant will shortly bring a motion to stay  
28

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1 Plaintiff's individual claims, to dismiss the class claims, and to require Plaintiff to arbitrate her claims.  
 2 Defendant will further seek to recover all fees and costs associated with obtaining such relief.

### 3 4 **GENERAL DENIAL**

5 2. Notwithstanding the foregoing and without prejudice to its right to seek arbitration,  
 6 pursuant to California Code of Civil Procedure section 431.30(d), Defendant denies, generally and  
 7 specifically, conjunctively and disjunctively, each and every allegation of the Complaint, and in each  
 8 and every cause of action contained and asserted therein. Defendant denies that it is, or will be, liable  
 9 to Plaintiff in any sum whatsoever. Defendant further denies, generally and specifically, that Plaintiff  
 10 has suffered damages in the amount alleged, or in any sum, or that Plaintiff is entitled to any relief at  
 11 all, by reason of any wrongful act or omission or purported act or omission of Defendant.

12 3. By alleging the defenses below, Defendant is not in any way agreeing or conceding that  
 13 it has the burden of proof or persuasion on any of these issues.

### 14 15 **FIRST AFFIRMATIVE DEFENSE**

16 Plaintiff's causes of actions are barred because she lacks standing to seek relief for any of her  
 17 claims and/or on behalf of a class due to the valid and binding arbitration agreement that governs her  
 18 claims.

### 19 20 **SECOND AFFIRMATIVE DEFENSE**

21 Defendant alleges that the Complaint fails to state facts sufficient to constitute a cause of action  
 22 as against Defendant for the reason that the same appears to be barred by the applicable statute of  
 23 limitations.

### 24 25 **THIRD AFFIRMATIVE DEFENSE**

26 Defendant allege that all of Plaintiff's claims are barred because each claim is moot.  
 27  
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**FOURTH AFFIRMATIVE DEFENSE**

Defendant alleges that the Complaint fails to state facts sufficient to constitute a cause of action under any legal theory.

**FIFTH AFFIRMATIVE DEFENSE**

Defendant believes, and based upon such information and belief, alleges that at the time of the alleged conduct, Plaintiff had knowledge of the alleged recordings.

**SIXTH AFFIRMATIVE DEFENSE**

Defendants assert that Plaintiff has acted with "unclean hands" and that such actions are directly related to the claims by Plaintiff in the Complaint. As a result, Plaintiff is precluded from pursuing the claims in the Complaint.

**SEVENTH AFFIRMATIVE DEFENSE**

Defendant presently has insufficient knowledge or information upon which to form a belief as to whether it may have additional affirmative defenses available. Defendant reserves the right to assert additional affirmative defenses in the event discovery or further analysis indicates that additional, unknown or unstated affirmative defenses would be applicable.

Dated: November 25, 2013

CALL & JENSEN  
A Professional Corporation  
Matthew R. Orr  
Michael S. Orr

By: 

Michael S. Orr

Attorneys for Defendant Monterey Financial Services, Inc.


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EST. 1981

**DEMAND FOR JURY TRIAL**

Defendant hereby demands a jury trial on all issues raised in the Complaint by Plaintiff Tiffany Brinkley.

Dated: November 25, 2013

CALL & JENSEN  
A Professional Corporation  
Matthew R. Orr  
Michael S. Orr

By:   
Michael S. Orr

Attorneys for Defendant Monterey Financial Services,  
Inc.

**PROOF OF SERVICE**

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is 610 Newport Center Drive, Suite 700, Newport Beach, CA 92660.

On November 25, 2013, I served the foregoing document described as **DEFENDANT MONTEREY FINANCIAL SERVICES, INC.'S ANSWER TO PLAINTIFF'S COMPLAINT; DEMAND FOR JURY TRIAL** on the following person(s) in the manner indicated:

**SEE ATTACHED SERVICE LIST**

☐ (BY ELECTRONIC SERVICE) I am causing the document(s) to be served on the Filing User(s) through the Court's Electronic Filing System.

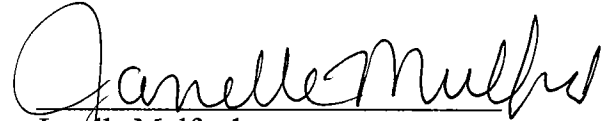
☒ (BY MAIL) I am familiar with the practice of Call & Jensen for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business. On this date, a copy of said document was placed in a sealed envelope, with postage fully prepaid, addressed as set forth herein, and such envelope was placed for collection and mailing at Call & Jensen, Newport Beach, California, following ordinary business practices.

☐ (BY FEDEX) I am familiar with the practice of Call & Jensen for collection and processing of correspondence for delivery by overnight courier. Correspondence so collected and processed is deposited in a box or other facility regularly maintained by FedEx that same day in the ordinary course of business. On this date, a copy of said document was placed in a sealed envelope designated by FedEx with delivery fees paid or provided for, addressed as set forth herein, and such envelope was placed for delivery by FedEx at Call & Jensen, Newport Beach, California, following ordinary business practices.

☐ (BY FACSIMILE TRANSMISSION) On this date, at the time indicated on the transmittal sheet, attached hereto, I transmitted from a facsimile transmission machine, which telephone number is (949) 717-3100, the document described above and a copy of this declaration to the person, and at the facsimile transmission telephone numbers, set forth herein. The above-described transmission was reported as complete and without error by a properly issued transmission report issued by the facsimile transmission machine upon which the said transmission was made immediately following the transmission.

1 [ ] (BY ELECTRONIC TRANSMISSION) I served electronically from the electronic notification  
2 address of \_\_\_\_\_ the document described above and a copy of this declaration to the person  
3 and at the electronic notification address set forth herein. The electronic transmission was reported as  
complete and without error.

4 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
5 true and correct, and that this declaration was executed on November 25, 2013, at Newport Beach,  
California.

6   
7 Janelle Mulford  
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**SERVICE LIST**

**Attorneys for**

**Plaintiff Tiffany Brinkley**

Steven A. Wickman, Esq.  
Christina E. Wickman, Esq.  
Wickman & Wickman  
3170 4th Avenue, Suite 200  
San Diego, CA 92103-5850  
Tel: (619) 482-1207  
Fax: (619) 271-8656  
Steve@wickmanlaw.com  
Christina@wickmanlaw.com

Patrick N. Keegan, Esq.  
Keegan & Baker, LLP  
5055 Avenida Encinas, Suite 240  
Carlsbad, CA 92008  
Tel: (760) 929-9303  
Fax: (760) 929-9260  
pkeegan@keeganbaker.com